

**Criteria for Exempting Facilities from the Goals of Executive Order 13123
and Guidance for Reporting Exemptions
December 8, 1999**

These criteria and accompanying guidance fulfill the requirement under Section 502(b) of Executive Order 13123. The Secretary of Energy, in collaboration with other agency heads, is required to “establish criteria for determining which facilities are exempt from the order. In addition, DOE must provide guidance for agencies to report proposed exemptions.” These criteria and guidance will be incorporated into the annual DOE Reporting Guidance for the *Annual Report to Congress on Federal Government Energy Management* for FY 2000. In subsequent years, these criteria will be subject to change as implementation issues arise and are addressed.

Three Categories of Buildings Under Executive Order 13123

Executive Order 13123 establishes three categories of Federal buildings and facilities pertaining to compliance with the goals and other requirements of the Order. These categories are:

- 1) **Standard buildings/facilities** subject to Section 202, Energy Efficiency Improvement Goals: “Through life-cycle cost-effective measures, each agency shall reduce energy consumption per gross square foot of its facilities, excluding facilities covered in Section 203 of this order, by 30 percent by 2005 and 35 percent by 2010 relative to 1985.”
- 2) **Industrial, laboratory, research, and other energy-intensive facilities** subject to the goals of Section 203, Industrial and Laboratory Facilities: “Through life-cycle cost-effective measures, each agency shall reduce energy consumption per square foot, per unit of production, or per other unit as applicable by 20 percent by 2005 and 25 percent by 2010 relative to 1990.”
- 3) **Exempt facilities** as defined under Section 704: “a facility. . .for which an agency uses DOE-established criteria to determine that compliance with the Energy Policy Act of 1992 or this order is not practical.”

Standard buildings/facilities include, but are not limited to, the following types of buildings:

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| · Office buildings | · Libraries |
| · Retail/stores | · Clinics |
| · Schools | · Warehouses |
| · Churches/chapels | · Jails |
| · Gymnasiums | · Multi- and single-family residences |

The types of buildings that agencies may classify as *either standard buildings or as industrial, laboratory, research, or energy-intensive facilities* include, but are not limited to:

- Laboratories
- Research hospitals
- Computer centers
- Bulk document handling/processing facilities

Many facilities that house energy intensive operations offer great opportunities for saving large amounts of energy. In many cases, investments in energy efficiency measures can pay off particularly quickly in these types of facilities. Therefore, it may benefit the agency to keep these buildings in the standard buildings category to help the agency meet the 30 and 35 percent reduction goals.

Under the Order, industrial facilities should be classified as energy-intensive and be subject to the goals of Section 203. Section 706 defines “industrial facility” as “any fixed equipment, building, or complex for production, manufacturing, or other processes that uses large amounts of capital equipment in connection with, or as part of, any process or system, and within which the majority of energy use is not devoted to the heating, cooling, lighting, ventilation, or to service the water heating energy load requirements of the facility.” DOE understands that heating, cooling, ventilating, and water heating functions may also be an integral part of the industrial process. Therefore, “heating, cooling, lighting, ventilation, or to service the water heating energy load requirements” should be interpreted in this definition as referring to normal (non-process) energy loads for occupancy requirements.

Criteria for Exempting Facilities from Executive Order 13123 Goals

The following facilities may be exempted from Section 201, Greenhouse Gas Reduction Goal, Section 202, Energy Efficiency Improvement Goals for standard buildings and facilities, and the goals of Section 203, Industrial and Laboratory Facilities of Executive Order 13123.

- **Buildings and facilities in which it is technically infeasible to implement energy efficiency measures or where conventional performance measures are rendered meaningless by an overwhelming proportion of process-dedicated energy.** For these exemptions, a finding of impracticability must be approved by the Department of Energy as outlined in Section 543(c) of the National Energy Conservation Policy Act, as amended by the Energy Policy Act of 1992. Buildings and facilities where it is technically infeasible to implement energy efficiency measures, may be exempted. Agencies must provide a justification that explains why it is technically infeasible. Facilities with energy-intensive processes where agencies can clearly demonstrate that process-dedicated energy overwhelms other building energy consumption, and the fluctuation in the operation of the process would significantly impact meeting the aforementioned goals of the Executive Order, may be exempted. Agencies must provide a justification that explains why process-dedicated energy in these facilities may impact the Agencies ability to meet the goals.

The finding of impracticability must be submitted to the DOE Assistant Secretary for Energy Efficiency and Renewable Energy for approval and may be renewed in subsequent years by providing a statement to DOE declaring no significant change in building status. For buildings where exemptions are granted, agencies should undertake energy audits and are strongly encouraged to implement all life-cycle cost-effective measures per the recommendation of the audit.

- **Structures such as outside parking garages which consume essentially only lighting energy, yet are classed as buildings.** While great opportunity exists for energy efficiency measures in such structures, the relatively lower energy use per square foot of the unconditioned space should not be counted as “building” space. Energy used for airport and street lighting not directly associated with a building may also be considered exempt from goals.
- **Buildings where energy usage is skewed significantly due to reasons such as: buildings entering or leaving the inventory during the year, buildings down-scaled operationally to prepare for decontamination, decommissioning and disposal, and buildings undergoing major renovation and/or major asbestos removal.** These buildings may be exempted only during the fiscal year when energy usage is skewed. Energy efficiency measures should be considered for down-scaled buildings awaiting disposal if the measures pay for themselves prior to building demolition.
- **Federal ships that consume “Cold Iron Energy,” (energy used to supply power and heat to ships docked in port) and airplanes or other vehicles that are supplied with utility-provided energy.**

Guidance for Agencies to Report Proposed Exemptions

Although buildings found exempt according to the previously-stated criteria are not subject to the requirements of Sections 202 and 203 of Executive Order 13123, DOE will continue to collect energy consumption data for these buildings under the new reporting category of “Exempt Buildings.” This ensures that accurate reporting on overall Federal energy consumption is maintained. Agencies will report energy consumption and costs under these four categories in FY 2000:

- 1) Buildings & Facilities,
- 2) Industrial, Laboratory, Research or Energy-Intensive Facilities,
- 3) Exempt Facilities, and
- 4) Vehicles & Equipment.

Agencies should report aggregate energy consumption in exempt buildings for each energy type in the reporting units listed below:

Electricity	(Megawatt Hours)
Fuel Oil	(Thousands of Gallons)
Natural Gas	(Thousand Cubic Feet)
LPG/Propane	(Thousands of Gallons)
Coal	(Short Ton)
Purchased Steam	(Billion Btu)
Other	(Billion Btu)

Each agency will submit to DOE its aggregate annual costs for each fuel type consumed in its exempt buildings.

Each agency shall also submit to DOE a list of the buildings/facilities exempted from the requirements of the Order. For each building or facility listed, the agency shall provide the gross square footage of the building and the justification for exclusion. This information must also be included in the agency's annual report to the President. Section 303 (b) of Executive Order 13123 (b) states that "each agency's annual report to the President shall. . .include a listing and explanation of exempt facilities."

Buildings with Fully-Serviced Leases

DOE assumes that agencies will not list or report energy consumption in buildings with fully-serviced leases, where the landlord is responsible for paying energy bills. In these cases, the agency has little control over building operations and cannot implement energy efficiency measures.

Contact for Further Information

For more information, contact the DOE Federal Energy Management Program at 202-586-5772.